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11 *Attorneys for Defendant Ronald Craig Ilg*

12  
13 UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF WASHINGTON

15 UNITED STATES OF AMERICA,

16  
17 Plaintiff,

18  
19 vs.

20  
21 RONALD CRAIG ILG,

22  
23 Defendant.

Case No. 2:21-cr-00049-WFN

**DEFENDANT'S MOTION TO  
SEAL RE: FORENSIC  
PSYCHOLOGICAL  
EVALUATION**

Without Oral Argument:  
June 2, 2021 at 6:30 pm

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27 COMES NOW, the Defendant RONALD CRAIG ILG, by and through his  
28 attorneys of record, Carl J. Oreskovich and Andrew M. Wagley of Etter,  
29 McMahon, Lamberson, Van Wert & Oreskovich, P.C., and hereby moves the  
30 Court for an Order sealing the Forensic Psychological Evaluation of Defendant  
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1 Ronald Craig Ilg, MD (“Dr. Ilg”) completed by Alexander Patterson, Psy.D.  
 2  
 3 This Forensic Evaluation is used in support of Dr. Ilg’s accompanying Motion to  
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 5 Reopen Detention Hearing Re: Request for Release of Defendant. This Motion  
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 7 is brought pursuant to Fed. R. Crim. P. 49.1(d) and is supported by the following  
 8  
 9 Memorandum of Law.

### 10 MEMORANDUM OF LAW

11  
 12 Pursuant to Fed. R. Crim. P. 49.1(d), the Court “may order that filing be  
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 14 made under seal without redaction.” “Unless a particular court record is one  
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 16 traditionally kept secret, a strong presumption [exists] in favor of [public] access  
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 18 [to the record].” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79  
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 20 (9th Cir. 2006). Therefore, “a party seeking to seal a judicial record bears the  
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 22 burden of overcoming this strong presumption by meeting the compelling  
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 24 reasons standard.” *Kamakana*, 447 F.3d at 1179. However, the public’s right of  
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 26 access “can be overcome . . . by an overriding right or interest ‘based on  
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 28 findings that closure is essential to preserve higher values and is narrowly  
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 30 tailored to serve that interest.’” *Oregonian Publ’g Co. v. U.S. Dist. Court*, 920  
 31  
 32 F.2d 1462, 1465 (9th Cir. 1990) (quoting *Press–Enterprise Co. v. Superior Court*, 464 U.S. 501, 510 (1985)).

1 In the situation at hand, the accompanying Psychological Evaluation  
2 contains substantial private information in the form of statutorily-protected  
3 medical information regarding Dr. Ilg's mental health. *See* RCW 70.02.005(1)  
4 ("Health care information is personal and sensitive information that if  
5 improperly used or released may do significant harm to a patient's interests in  
6 privacy, health care, or other interests."); *accord* 45 C.F.R. § 164.502(a) ("A  
7 covered entity or business associate may not use or disclose protected health  
8 information, except as permitted or required by this subpart or by subpart C of  
9 part 160 of this subchapter."). As such, various district courts have likewise  
10 ordered that mental health evaluations be sealed in the court file. *See United*  
11 *States v. Salisbury*, 2014 WL 1577196, at \*3 (D. Nev. 2014) (unpublished)  
12 (forensic report filed under seal); *see also United States v. Hutton*, 2020 WL  
13 5018383, at \*2 (D. Mont. 2020) (unpublished) (noting that reports on  
14 defendant's psychological condition shall be filed under seal); *accord United*  
15 *States v. Caraang*, 2018 WL 2216103, at \*6 (W.D. Wash. 2018) (unpublished)  
16 (forensic psychological evaluation filed under seal).

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30 To the extent the public has a right of access to documents used in the  
31 judicial decision-making process, pertinent excerpts and conclusions of the  
32

1 Psychological Evaluation are quoted in the accompanying Motion to Reopened  
2  
3 Detention Hearing. Based upon the foregoing, good cause and compelling  
4  
5 reasons exist to grant Defendant's Motion to Seal the accompanying Forensic  
6  
7 Psychological Evaluation.

8  
9 RESPECTFULLY SUBMITTED this 2nd day of June, 2021.

10 ETTER, McMAHON, LAMBERSON,  
11 VAN WERT & ORESKOVICH, P.C.  
12

13  
14 By: /s/ Carl J. Oreskovich

15 Carl J. Oreskovich, WSBA #12779

16 Andrew M. Wagley, WSBA #50007

17 *Attorneys for Defendant Ronald Craig Ilg*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of June, 2021, I electronically  
filed the following document:

DEFENDANT’S MOTION TO SEAL RE FORENSIC  
PSYCHOLOGICAL EVALUATION

with the Clerk of the Court using the CM/ECF System, which will send  
notification of such filing to the following:

Richard R. Barker  
[Richard.Barker@usdoj.gov](mailto:Richard.Barker@usdoj.gov)

James A. Goeke  
[James.Goeke@usdoj.gov](mailto:James.Goeke@usdoj.gov)

DATED this 2nd day of June, 2021.

By: /s/ Carl J. Oreskovich